



Seattle Office of Police Accountability

November 29, 2018

Chief Carmen Best
Seattle Police Department
PO Box 34986
Seattle, WA 98124-4986

Dear Chief Best:

Please see the below Management Action Recommendation.

Case Number

- 2018OPA-0353

Topic

- Search Warrant Exception

Summary

- It was alleged that the Named Employees violated *SPD Policy 6.180 – Searches-General* by entering a residence without a warrant.

Analysis

- The employees said the seizure was permitted based on the “community caretaking” exception to the warrant requirement. However, community caretaking is not mentioned in policy 6.180-POL-2(b). This policy permits an entry based on exigent circumstances, but is limited to cases where “there is probable cause to believe that delay in getting a warrant would result in the loss of evidence, escape of the suspect, or harm to police or public.”
- The community caretaking exception is different and applies when the need to protect or preserve life, avoid serious injury, or protect property in danger of damage justifies an entry that would otherwise be illegal absent an emergency. This exception does not need to be supported by facts amounting to probable cause – it simply requires the officer’s perceiving of a need to render aid or assistance.
- The officers’ “entry” into the residence would have been justified by the community caretaking exception to the warrant requirement. However, their conduct does not fit under any of the exceptions outlined in SPD’s policy. As such, even though they acted consistent with Washington State law, they technically violated Department policy.

Recommendation(s)

- Modify policy 6.180-POL-2 to include the community caretaking/Emergency Doctrine exception to the search warrant requirement as set forth in caselaw (*State v. Holeman*).

Thank you for your consideration of this matter. I look forward to your response.

Sincerely,

AM

Andrew Myerberg
Director, Office of Police Accountability